

**BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

IN RE TEXAS PRISON HEAT
LITIGATION

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§

MDL Docket No. _____

**EXHIBIT 5 TO MOTION OF DEFENDANTS FOR TRANSFER
OF ACTIONS TO THE SOUTHERN DISTRICT OF TEXAS PURSUANT
TO 28 U.S.C. § 1407 FOR COORDINATED OR CONSOLIDATED
PRETRIAL PROCEEDINGS**

MARTONE DOCKET

STAYED, Transferred_In_Divisional

**U.S. District Court
SOUTHERN DISTRICT OF TEXAS (Houston)
CIVIL DOCKET FOR CASE #: 4:13-cv-03369**

Martone et al v. Livingston et al
Assigned to: Judge Keith P Ellison
Related Case: 3:13-cv-00283
Cause: 28:1331 Federal Question: Other Civil Rights

Date Filed: 08/07/2013
Jury Demand: Defendant
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Roxanne Martone
*Individually and as Representative
of the Estate of Michael Martone*

represented by **Brian Rolland McGiverin**
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Plaintiff

The Estate of Michael Martone

represented by **Brian Rolland McGiverin**
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ATTORNEY TO BE NOTICED

Scott Charles Medlock
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ATTORNEY TO BE NOTICED

Wayne Nicholas Krause
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ATTORNEY TO BE NOTICED

Jeffrey S Edwards
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V.

Defendant

Brad Livingston

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Defendant

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Defendant

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Defendant

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Defendant

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LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Johnathan Stone

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ATTORNEY TO BE NOTICED

Defendant

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Branch**

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Defendant

**Texas Department Of Criminal
Justice**

represented by **Bruce R Garcia**
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LEAD ATTORNEY
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Johnathan Stone
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Defendant

Dr. Owen Murray

represented by **Kim J Coogan**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Shanna Elizabeth Molinare
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Defendant

Dr. Lannette Linthicum

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Maurice Lawrence Wells
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LEAD ATTORNEY
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Defendant

Dr. Patricia Rye

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Lacey E Mase
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Shanna Elizabeth Molinare
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Defendant

William Stephens

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ATTORNEY TO BE NOTICED

Maurice Lawrence Wells

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Allan Kennedy Cook

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ATTORNEY TO BE NOTICED

Defendant

Rick Thaler

represented by **Cynthia Burton**

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Demetri Anastasiadis

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Allan Kennedy Cook

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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
08/07/2013	<u>1</u>	COMPLAINT against All Defendants (Filing fee \$ 400 receipt number 0541-11838863) filed by Roxanne Martone. (Attachments: # <u>1</u> Civil Cover Sheet) (Edwards, Jeffrey) (Entered: 08/07/2013)
08/14/2013	<u>2</u>	ORDER for Initial Pretrial and Scheduling Conference and Order to Disclose Interested Persons. Initial Conference set for 11/13/2013 at 10:30 AM in Sixth Floor Courtroom before Judge Gregg Costa(Signed by Judge Gregg Costa) Parties notified.(dwilkerson,) (Entered: 08/14/2013)
09/04/2013	<u>3</u>	CERTIFICATE OF INTERESTED PARTIES by Roxanne Martone, The Estate of Michael Martone, filed.(Medlock, Scott) (Entered: 09/04/2013)
09/25/2013	<u>4</u>	Request for Issuance of Summons as to All Defendants, filed.(Edwards, Jeffrey) (Entered: 09/25/2013)
09/25/2013		Summons Issued as to All Defendants, filed.(wbostic, 4) (Entered: 09/25/2013)

09/26/2013	<u>5</u>	Request for Issuance of Summons as to Dr. Owen Murray, filed.(Edwards, Jeffrey) (Entered: 09/26/2013)
09/26/2013		Summons Issued as to Dr. Owen Murray re <u>5</u> Request for Issuance of Summons. (dwilkerson, 3) (Entered: 09/26/2013)
09/26/2013	<u>6</u>	Clerks Notice regarding CMECF notice returned undeliverable from grecia@edwards-law.com on the account of Jeffrey S Edwards. The referenced email address has been deleted from your CM/ECF account, filed. (tferguson, 4) (Entered: 09/26/2013)
10/17/2013	<u>7</u>	ANSWER to <u>1</u> Complaint with Jury Demand by Kerry Collard, James Jones, filed.(Garcia, Bruce) (Entered: 10/17/2013)
10/17/2013	<u>8</u>	MOTION to Dismiss by Brad Livingston, William Stephens, Rick Thaler, filed. Motion Docket Date 11/7/2013. (Wells, Maurice) (Entered: 10/17/2013)
10/17/2013	<u>9</u>	MOTION to Transfer Case to USDC Southern District of Texas - Houston Division by Brad Livingston, William Stephens, Rick Thaler, filed. Motion Docket Date 11/7/2013. (Attachments: # <u>1</u> Proposed Order)(Wells, Maurice) (Entered: 10/17/2013)
10/22/2013	<u>10</u>	NOTICE of Appearance by Demetri Anastasiadis on behalf of Brad Livingston, William Stephens, Rick Thaler, filed. (Anastasiadis, Demetri) (Entered: 10/22/2013)
10/24/2013	<u>11</u>	ADVISORY by Kerry Collard, James Jones, filed.(Garcia, Bruce) (Entered: 10/24/2013)
10/25/2013	<u>12</u>	MOTION to Transfer Case to Houston Division by Kerry Collard, James Jones, Texas Department Of Criminal Justice, filed. Motion Docket Date 11/15/2013. (Attachments: # <u>1</u> Proposed Order)(Garcia, Bruce) (Entered: 10/25/2013)
10/25/2013	<u>13</u>	Unopposed MOTION to Stay <i>Deadline to Respond to Livingston, Thaler, and Stephens' Motion to Dismiss</i> by Roxanne Martone, The Estate of Michael Martone, filed. Motion Docket Date 11/15/2013. (Attachments: # <u>1</u> Proposed Order)(Edwards, Jeffrey) (Entered: 10/25/2013)
10/28/2013	<u>14</u>	ORDER granting <u>13</u> Plaintiff's Unopposed Motion to Stay Deadline to Respond to Livingston, Thaler and Stephens' Motion to Dismiss. (Signed by Judge Gregg Costa.) Parties notified. (yhausmann, 6) (Entered: 10/28/2013)
10/29/2013	<u>15</u>	ORDERED WITHDRAWN SEE DOC. <u>56</u> MOTION to Dismiss by Dr. Lannette Linthicum, filed. Motion Docket Date 11/19/2013. (Wells, Maurice) Modified on 5/30/2014 (sloewe, 4). (Entered: 10/29/2013)
11/04/2013	<u>16</u>	CERTIFICATE OF INTERESTED PARTIES by Dr. Lannette Linthicum, Brad Livingston, William Stephens, Rick Thaler, filed.(Wells, Maurice) (Entered: 11/04/2013)
11/08/2013	<u>17</u>	ANSWER to <u>1</u> Complaint with Jury Demand by Peggy McCleskey, filed.(Hime, Erika) (Entered: 11/08/2013)
11/08/2013	<u>18</u>	NOTICE <i>Defendant UTMB's Notice of Co-Counsel</i> by University of Texas Medical Branch, filed. (Hime, Erika) (Entered: 11/08/2013)

11/11/2013	<u>19</u>	Joint RESPONSE to <u>12</u> MOTION to Transfer Case to Houston Division, <u>9</u> MOTION to Transfer Case to USDC Southern District of Texas - Houston Division filed by Roxanne Martone, The Estate of Michael Martone. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Proposed Order)(Edwards, Jeffrey) (Entered: 11/11/2013)
11/12/2013	<u>20</u>	NOTICE of Appearance by Johnathan Stone on behalf of Kerry Collard, James Jones, Texas Department Of Criminal Justice, filed. (Stone, Johnathan) (Entered: 11/12/2013)
11/12/2013	<u>21</u>	JOINT DISCOVERY/CASE MANAGEMENT PLAN by Roxanne Martone, The Estate of Michael Martone, filed.(Edwards, Jeffrey) (Entered: 11/12/2013)
11/12/2013	<u>22</u>	JOINT DISCOVERY/CASE MANAGEMENT PLAN by Roxanne Martone, The Estate of Michael Martone, filed.(Edwards, Jeffrey) (Entered: 11/12/2013)
11/14/2013	<u>23</u>	ORDER granting <u>9</u> Motion to Transfer Case to Houston Division; granting <u>12</u> Motion to Transfer Case to Houston Division.(Signed by Judge Gregg Costa) Parties notified.(ccarnew, 3) (Entered: 11/14/2013)
11/14/2013		Intradistrict Transfer to Houston, filed. (ccarnew, 3) (Entered: 11/14/2013)
11/14/2013		Case transferred in from Galveston Division on 11/14/2013 ; Case Number 3:13-cv-283. Case assigned to Judge Keith P Ellison..(ccarnew, 3) (Entered: 11/14/2013)
11/19/2013	<u>24</u>	Unopposed MOTION for Extension of Time To Respond to Defendant Linthicum's Motion to Dismiss by Roxanne Martone, The Estate of Michael Martone, filed. Motion Docket Date 12/10/2013. (Attachments: # <u>1</u> Proposed Order)(Edwards, Jeffrey) (Entered: 11/19/2013)
11/20/2013	<u>25</u>	ORDER granting <u>24</u> Unopposed MOTION for Extension of Time To Respond to Defendant Linthicum's Motion to Dismiss; Motion-related deadline set re: <u>15</u> MOTION to Dismiss . Responses due by 12/14/2013.. (Signed by Judge Keith P Ellison) Parties notified.(gkelner, 4) (Entered: 11/21/2013)
11/25/2013	<u>26</u>	MOTION to Dismiss <i>Under FRCP 12(B)(6)</i> by University of Texas Medical Branch, filed. Motion Docket Date 12/16/2013. (Attachments: # <u>1</u> Proposed Order)(Coogan, Kim) (Entered: 11/25/2013)
11/25/2013	<u>27</u>	MOTION to Dismiss <i>Under FRCP 12(b)(6)</i> by Dr. Owen Murray, filed. Motion Docket Date 12/16/2013. (Attachments: # <u>1</u> Proposed Order)(Coogan, Kim) (Entered: 11/25/2013)
11/25/2013	<u>28</u>	MOTION to Dismiss by Dr. Patricia Rye, filed. Motion Docket Date 12/16/2013. (Attachments: # <u>1</u> Proposed Order)(Hime, Erika) (Entered: 11/25/2013)
11/26/2013	<u>29</u>	NOTICE of Appearance by Brian McGiverin on behalf of Roxanne Martone, The Estate of Michael Martone, filed. (McGiverin, Brian) (Entered: 11/26/2013)
11/26/2013	<u>30</u>	NOTICE of Appearance by Wayne Krause-Yang on behalf of Roxanne Martone, The Estate of Michael Martone, filed. (Krause, Wayne) (Entered: 11/26/2013)

12/06/2013	<u>31</u>	NOTICE <i>Notice of Defendant UTMB's Initial Disclosures</i> by University of Texas Medical Branch, filed. (Coogan, Kim) (Entered: 12/06/2013)
12/16/2013	<u>32</u>	RESPONSE to <u>27</u> MOTION to Dismiss <i>Under FRCP 12(b)(6)</i> filed by Roxanne Martone, The Estate of Michael Martone. (Attachments: # <u>1</u> Proposed Order) (Edwards, Jeffrey) (Entered: 12/16/2013)
12/16/2013	<u>33</u>	RESPONSE to <u>8</u> MOTION to Dismiss filed by Roxanne Martone, The Estate of Michael Martone. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Proposed Order)(Edwards, Jeffrey) (Entered: 12/16/2013)
12/16/2013	<u>34</u>	RESPONSE to <u>26</u> MOTION to Dismiss <i>Under FRCP 12(B)(6)</i> filed by Roxanne Martone, The Estate of Michael Martone. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Proposed Order)(Edwards, Jeffrey) (Entered: 12/16/2013)
12/16/2013	<u>35</u>	RESPONSE to <u>28</u> MOTION to Dismiss filed by Roxanne Martone, The Estate of Michael Martone. (Attachments: # <u>1</u> Proposed Order)(Edwards, Jeffrey) (Entered: 12/16/2013)
12/16/2013	<u>36</u>	RESPONSE to <u>15</u> MOTION to Dismiss filed by Roxanne Martone, The Estate of Michael Martone. (Attachments: # <u>1</u> Proposed Order)(Edwards, Jeffrey) (Entered: 12/16/2013)
12/31/2013	<u>37</u>	NOTICE of <i>Supplemental Authority</i> re: <u>8</u> MOTION to Dismiss by Roxanne Martone, The Estate of Michael Martone, filed. (Attachments: # <u>1</u> Exhibit) (Edwards, Jeffrey) (Entered: 12/31/2013)
01/03/2014	<u>38</u>	RESPONSE to <u>37</u> Notice (Other) <i>Plaintiffs' Notice of Supplemental Authority in Response to Defendants' Motion to Dismiss</i> , filed by Brad Livingston, William Stephens, Rick Thaler. (Anastasiadis, Demetri) (Entered: 01/03/2014)
01/10/2014	<u>39</u>	NOTICE of Appearance by Shanna Molinare as Co-Counsel on behalf of Peggy McCleskey, Dr. Owen Murray, Dr. Patricia Rye, University of Texas Medical Branch, filed. (Molinare, Shanna) (Entered: 01/10/2014)
01/16/2014	<u>40</u>	NOTICE of <i>Supplemental Authority</i> re: <u>26</u> MOTION to Dismiss <i>Under FRCP 12(B)(6)</i> by Roxanne Martone, The Estate of Michael Martone, filed. (Attachments: # <u>1</u> Exhibit 1)(Edwards, Jeffrey) (Entered: 01/16/2014)
01/17/2014	<u>41</u>	RESPONSE to <u>37</u> Notice (Other) (<i>Notice of Supplemental Authority</i>), filed by University of Texas Medical Branch. (Coogan, Kim) (Entered: 01/17/2014)
01/17/2014	<u>42</u>	Amended MOTION to Dismiss by University of Texas Medical Branch, filed. Motion Docket Date 2/7/2014. (Attachments: # <u>1</u> Proposed Order)(Coogan, Kim) (Entered: 01/17/2014)
01/17/2014	<u>43</u>	REPLY to Response to <u>8</u> MOTION to Dismiss , <u>15</u> MOTION to Dismiss , filed by Dr. Lannette Linthicum, Brad Livingston, William Stephens, Rick Thaler. (Attachments: # <u>1</u> Proposed Order)(Wells, Maurice) (Entered: 01/17/2014)
01/23/2014	<u>44</u>	RESPONSE to <u>42</u> Amended MOTION to Dismiss filed by Roxanne Martone, The Estate of Michael Martone. (Attachments: # <u>1</u> Proposed Order)(Edwards, Jeffrey) (Entered: 01/23/2014)
02/06/2014	<u>45</u>	

		NOTICE of Appearance by M. Lawrence Wells on behalf of Dr. Lannette Linthicum, Brad Livingston, William Stephens, Rick Thaler, filed. (Wells, Maurice) (Entered: 02/06/2014)
03/11/2014	<u>46</u>	ANSWER to <u>1</u> Complaint with Jury Demand by Richard Alford, filed.(Garcia, Bruce) (Entered: 03/11/2014)
04/11/2014	<u>47</u>	NOTICE of Supplemental Authority by Roxanne Martone, The Estate of Michael Martone, filed. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7)(Edwards, Jeffrey) (Entered: 04/11/2014)
04/16/2014	<u>48</u>	Defendant McCleskey's FIRST AMENDED ANSWER and JURY DEMAND to <u>1</u> Complaint with Jury Demand by Peggy McCleskey, filed.(Mase, Lacey) (Entered: 04/16/2014)
04/17/2014	<u>49</u>	NOTICE of Appearance by Calysta L. Lantiegne on behalf of University of Texas Medical Branch, filed. (Lantiegne, Calysta) (Entered: 04/17/2014)
05/19/2014	<u>50</u>	NOTICE of Agreed Protective Order by University of Texas Medical Branch, filed. (Coogan, Kim) (Entered: 05/19/2014)
05/23/2014	<u>51</u>	Opposed MOTION to Quash Plaintiff's Notice of Intention to Take Oral and Videotaped Deposition of Patricia Rye and Subpoena Duces Tecum and Motion for Protective Order by Dr. Patricia Rye, filed. Motion Docket Date 6/13/2014. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Proposed Order)(Mase, Lacey) (Entered: 05/23/2014)
05/27/2014	<u>52</u>	NOTICE of Setting as to <u>15</u> MOTION to Dismiss , <u>51</u> Opposed MOTION to Quash Plaintiff's Notice of Intention to Take Oral and Videotaped Deposition of Patricia Rye and Subpoena Duces Tecum and Motion for Protective Order, <u>42</u> Amended MOTION to Dismiss , <u>27</u> MOTION to Dismiss <i>Under FRCP 12(b)(6)</i> , <u>26</u> MOTION to Dismiss <i>Under FRCP 12(B)(6)</i> , <u>28</u> MOTION to Dismiss . Parties notified. Motion Hearing set for 6/2/2014 at 10:30 AM in Courtroom 3A before Judge Keith P Ellison, filed. (sclement, 4) (Entered: 05/27/2014)
05/29/2014	<u>53</u>	DESIGNATION of Bruce R. Garcia as attorney in charge of Dr. Lannette Linthicum, filed.(Garcia, Bruce) (Entered: 05/29/2014)
05/29/2014	<u>54</u>	DESIGNATION of Bruce R. Garcia as attorney in charge of Dr. Lannette Linthicum, filed.(Garcia, Bruce) (Entered: 05/29/2014)
05/30/2014	<u>55</u>	Unopposed MOTION to Withdraw by Dr. Lannette Linthicum, filed. Motion Docket Date 6/20/2014. (Attachments: # <u>1</u> Proposed Order)(Garcia, Bruce) (Entered: 05/30/2014)
05/30/2014	<u>56</u>	ORDER granting <u>55</u> Motion to Withdraw.(Signed by Judge Keith P Ellison) Parties notified.(sloewe, 4) (Entered: 05/30/2014)
05/30/2014		***Motion(s) terminated as WITHDRAWN: <u>15</u> MOTION to Dismiss . (sloewe, 4) (Entered: 05/30/2014)
05/30/2014	<u>57</u>	RESPONSE to <u>51</u> Opposed MOTION to Quash Plaintiff's Notice of Intention to Take Oral and Videotaped Deposition of Patricia Rye and Subpoena Duces Tecum and Motion for Protective Order filed by Roxanne Martone, The Estate

		of Michael Martone. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Proposed Order)(Edwards, Jeffrey) (Entered: 05/30/2014)
06/02/2014		Minute Entry for proceedings held before Judge Keith P Ellison. MOTION HEARING held on 6/2/2014 DENYING <u>51</u> Opposed MOTION to Quash Plaintiff's Notice of Intention to Take Oral and Videotaped Deposition of Patricia Rye and Subpoena Duces Tecum and Motion for Protective Order. The remaining pending motions under advisement. Appearances:(Law Clerk: Alisa Philo). Bruce R Garcia, Jeffrey S Edwards, Scott Charles Medlock, Kim J Coogan.(Court Reporter: Heather Hall), filed.(sloewe, 4) (Entered: 06/02/2014)
06/05/2014	<u>58</u>	ADVISORY by University of Texas Medical Branch, filed.(Coogan, Kim) (Entered: 06/05/2014)
06/10/2014	<u>59</u>	NOTICE of Appearance by Allan K. Cook on behalf of Brad Livingston, William Stephens, Rick Thaler, filed. (Cook, Allan) (Entered: 06/10/2014)
06/11/2014	<u>60</u>	MOTION to Quash Discovery by Brad Livingston, William Stephens, Rick Thaler, filed. Motion Docket Date 7/2/2014. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B part 1 of 5, # <u>3</u> Exhibit B part 2 of 5, # <u>4</u> Exhibit B part 3 of 5, # <u>5</u> Exhibit B part 4 of 5, # <u>6</u> Exhibit B part 5 of 5, # <u>7</u> Proposed Order) (Anastasiadis, Demetri) (Entered: 06/11/2014)
06/12/2014	<u>61</u>	ANSWER to <u>1</u> Complaint with Jury Demand by Dr. Lannette Linthicum, filed. (Garcia, Bruce) (Entered: 06/12/2014)
06/18/2014	<u>62</u>	Opposed MOTION to Stay <i>All New Discovery</i> by University of Texas Medical Branch, filed. Motion Docket Date 7/9/2014. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Proposed Order)(Cook, Allan) (Entered: 06/18/2014)
06/25/2014	<u>63</u>	Sealed Event, filed. (With attachments) (Entered: 06/25/2014)
07/01/2014	<u>64</u>	RESPONSE to <u>60</u> MOTION to Quash Discovery , filed by Roxanne Martone, The Estate of Michael Martone. (Attachments: # <u>1</u> Appendix, # <u>2</u> Proposed Order)(Edwards, Jeffrey) (Entered: 07/01/2014)
07/08/2014	<u>65</u>	NOTICE of Setting as to <u>62</u> Opposed MOTION to Stay <i>All New Discovery</i> . Parties notified. Motion Hearing set for 7/11/2014 at 11:00 AM in Courtroom 3A Houston before Judge Keith P Ellison, filed. (sloewe, 4) (Entered: 07/08/2014)
07/08/2014	<u>66</u>	NOTICE of Resetting as to <u>62</u> Opposed MOTION to Stay <i>All New Discovery</i> , <u>65</u> Notice of Setting (FORM, noticing) - Judge Ellison. Parties notified. Motion Hearing set for 7/11/2014 at 10:30 AM in Courtroom 3A Houston before Judge Keith P Ellison, filed. (sloewe, 4) (Entered: 07/08/2014)
07/08/2014	<u>67</u>	NOTICE of Appearance by CYNTHIA L. BURTON on behalf of Richard Alford, Kerry Collard, James Jones, Dr. Lannette Linthicum, Brad Livingston, William Stephens, Texas Department Of Criminal Justice, Rick Thaler, filed. (Burton, Cynthia) (Entered: 07/08/2014)

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